To whom may concern:

My name is Daniel M Ponce I’m writing to you because there is a certain misunderstanding I have with your process on hiring veterans to become Border Patrol Agents. The Border Patrol process already has a couple obstacles that many veterans or civilians do not pass. First part is the application process which compare from 2009 till 2014 now applicants have to be invited to take the written test if they meet the requirements you guys are looking for. After passing the written part, the next step is the physical health test. After passing the physical health test then there is the oral interview which consist of scenarios that Border Patrol goes through on a daily basis. The second to last obstacle is the one that many are failing and there is a high percent of veterans being discriminated as well. The second to last obstacle is the **polygraph interview.**

I was scheduled to take the polygraph interview on April 21, 2014 at 0800 hours in San Diego,CA. As I arrived 15 minutes prior to the interview I waited till 0800 till I was attended by a polygraph agent. The first polygraph agent advised me “that my agent conducting my interview will come out in a few minutes.” I replied with a thank you and waited for 30 minutes. Once the 30 minutes passed I decide to ring the door bell they had there. The door bell signs read as followed “press for assistance after waiting more than 30 minutes in waiting area.” And I requested assistance. A second agent came outside and advised me “that there was a malfunction with the polygraph system and that they were trying to fix it in the mean while.” I as I waited by my seat, the first polygraph agent pass by and mentioned to me that “that there is still a malfunction with the polygraph system.” At 0945 hours my polygraph agent Jennifer Hudson advised me that there is a malfunction with the polygraph and for me to go grab lunch and be back around estimated time from 1100-1115 hours. I agreed and off I went to lunch and returned to the test site 30 minutes prior.

It was around 1130 hours that my polygraph agent finally said that “the polygraph system was finally fixed.” Once inside the polygraph room before any proceedings begins Mrs. Hudson advises me to read and sign the **POLYGRAPH RIGHTS WARNING AND WAIVER & POLYGRAPH EXAMINATION CONSENT** formsin order to proceed on becoming a Border Patrol Agent. One issue that I have here is **that POLYGRAPH RIGHTS WARNING AND WAIVER** form has a similar structure as the **Miranda Rights.**  The difference is that on sentencing of Miranda Rights is that it mentions courts of law and on polygraph form, it just mentions courts. First of all, in that small particular room where the polygraph system is set up is not a court. It is a room equipped with a table, two chairs and the polygraph system. From my understanding the **Miranda Rights** are implicated when someone is breaking the law and the police have custody of the criminal which means arrested. **\_\_\_\_\_\_\_\_\_\_\_\_\_, have read and/or had explained to me this statement of my rights. I understand my rights. I agree to answer questions and do not want a lawyer at this time. I have not been threatened, coerced or promised anything and hereby voluntarily waive my rights.** The highlight part it is a section that is on the polygraph form. My question is why, would I need a lawyer for a job interview if I have not committed any crimes. The second part highlighted is that I waived my rights section. I’m still currently in the military U.S. Air Force Reserve and I do remember I signed an oath stating “ **I will** **protect and defend the Constitution of the United States against all enemies, foreign and domestic.”**  So why is that form is taking my rights away if my commanding officers and including our Presidents which are our Commanders in Chief and are always stating that Americans have rights because of our U.S Veterans and military personnel. Is your polygraph form calling them liars? Anyways that is what was going on with my mind as I read your forms on April 21, 2014.

Finally, after signed the forms Mrs. Hudson explained to me how the polygraph system works and what it does, and that it is very accurate. At this point I honestly do not know how accurate the polygraphs were or are. All I knew at this moment was that machines break no matter how expensive they are. She then is reviewing the questions, I have to answer and at the same time she is asking basic questions on trying to get to know me. **The questions were, have you ever been polygraph before? Have you ever taken any drugs? Have you ever committed any crimes? Have you ever hurt someone’s feelings? Have you ever cheated on a test? If you ever make a mistake at a jobsite do you reported it or try to hide it? And are you telling the truth?** As she is asking the questions she is explaining the fully details of each question and for me to explain any that pertained to me. I did explain to her the questions that pertain to me which was mistakes at jobsites and drugs. I advised her that I smoked weed once in high school and that I have add that information on the application process and **E-QIP** form. I also advised her about the jobsite incidents as a Marine. I mention to her if made a mistake I would always reported to my chain of command and get it fixed. I also explain to her that I was disqualified from California Corrections in 2013 because I made mistake on their application on the drug question. I made an honest mistake by accident. However in 2014 for California Corrections I reapplied and passed their background questionnaire and I have admit to my error and that is how passed my background and now I’m just waiting on the medical exam to proceed forward. After she heard all my explanations she said, “that was ok and that it was time to move to the polygraph exam.” She gave me like a 10 minute break while she set up a practice test with the polygraph system.

As the 10 minute break was over, she conducted a practice test on me wish consisted on of numbers 1-6. She got a paper and wrote 5 numbers, 1,2,3,4,5. She posted the paper on the wall and then connected the polygraph gadgets to my body. I had two wires connected one to my index finger and the other to my middle finger. Then my stomach was wrapped around with another wire. Finally my right bicep was tied with a blood pressure monitor. She advises me to look at the numbers. The questions were simple. She asked, “do you see a 1, do you see a 2, do you see a 3 , do you see a 4, do you see 5, do you see a 6?” The first five questions were yes and the last one was a no. Then she advised **me for this** **next round of practice test for the last question I was going to answer would be yes** if I saw number 6. I acknowledge that I understood. Again she asked the same question about seeing 1-5 than she got to the part of the last question. “Do you see a number 6?” I replied with a no, because one I was nervous and two well I did not see a number 6. She kind of got a little angry and said, “to redo it again because it was not giving her the results she wanted.” Finally on the second tried it went well and got results she want. I really do not understand how telling someone to lie is going to show results of positive lying. Because one I’m not really lying and I was just doing what I was told on how to answer the last question. Like I mentioned before at this point I really do not know any information or have enough information about the polygraph. After the practice test was over she gave me a 20 minute break so she can setup the right tools for the real exam.

Once the 20 minutes were over I went back in the small room to conduct the real exam. She again revised the questions she was going to ask which were the ones mentioned earlier. The exam consisted of the same five questions and two other questions that were, “**is the door open**?’ and “ **if the lights were on?”** However the wiring was different and it was conducted in three different ways. The first time the wiring was setup the same as mentioned earlier. The second time the rest of the wiring remained the same except for the blood pressure monitor. She relocated the blood pressure monitor to my wrist on my left side. The third time the wiring was the same except for the blood pressure monitor she relocated the monitor to my left leg. The total exam for the polygraph for the session took about an hour and thirty minutes. I answer all questions in the same way with a yes and no answer. In all three times of the exam the questions were the same and worded the same the only difference was they came out in different order each time. After the test was over she advised me to go out for 30 minutes so she can read the results. Going to be honest I know, I was 100 percent sure I that passed the exam.

As the thirty minutes were over she called me, “ to go in the small room to hear my results.” She asked, “ If I was completely honest? I reply with a, “yes.” Then she said, “Well according to the polygraph you were not honest and all the questions had different readings.” I then said “ok.” I was very upset to hear the results I just heard. So I told her, “ I was completely honest and if the polygraph reads those readings then I guess it wasn’t meant to be and thank you.” When I said those words to her, I was ready to leave because I thought the test was over. Then she said, “Where are you going we are not done.” I was ok, you just advised me that I failed. She said, “ No, you did not fail, the polygraph says you failed, not me.” I was confused at this point. She sat me down and said, “If you want to move forward you have to be completed honest with me, don’t you want to be a Border Patrol Agent.?” I was confused at this point because I was wondering well she just had a full interview with me. Then she asks, “Which questions did you have trouble with?” “Well only one” I answer. She said, “Which one and I need you to be completed honest with me so we can move forward.” “Tell me the truth so we can move forward with your process.” I advised her, “the only question I felt trouble was the one if I ever hurt someone’s feelings?” She asked, “Why.” I advised that on my E-QIP packet I have wrote down that my father appeared after 24 years of not know anything about him. I have also mentioned this story to her right in the beginning when she was asking questions on how I grew up. She again said, “Why, what is the problem with question? I answered it feels after not seen him for 24 years, and my father still blames me for the divorce. By me talking to him I feel like I betrayed my mother, brother and sister. That is why that question was the only one I had trouble with.

She said, “She understood that part but those readings were not show any issue with that question.” She cleared stated, “the only question the polygraph had really trouble was the serial criminal.” At this point in my mind I was ok. She just advised me that all questions were wrong and now she tells me that polygraph only read one question wrong now. Again she reviewed the definitions of what it was to be a serial criminal. This is what categorizes a serial criminal according to her policies. Arsonist, stealing, burglary, rape, breaking into property, murder, car theft, selling drugs, human trafficking, fraud, and etc. I reply with a “No, I am not a serial criminal.” She insisted with the same question for like forty minutes. I replied, “ look I have not conducted any of those terms you mentioned.” She then replied, “ Well is there stuff you have done that was wrong.” I said , “Yes” when I was Marine in 2013 my unit needed JP8 Fuel, we had no stickers or placards to attach to the barrels or vehicle. The senior man said, “ He need someone to take it for the team.” Since I was a Sergeant I must lead by example because we really need the JP8 Fuel to conduct the mission if not the whole unit is going to be in a lot of trouble. So I carried the mission to get fuel and fill up the barrels. Well on my way back I was being followed by a blue vehicle. It was weird because in our area there are no blue vehicles that go by. Well as soon I as I get to the shop I an elder man in his late 30’s ask for my rank and name. I first asked him, “Who he was because he was in regular clothes. He said his name was Gunnery Sergeant Sanchez or Rodrguiez that I recall and that he was an assistant to the base commander. He, “then asked me what was wrong with the picture? “ I went to parade rest and told him the truth. I told him “that barrels and vehicle needed placards.” He then asked, “ why you don’t have placards?” I answer, “because my unit is new and we are barely forming up and we this equipment in order to support the unit we are working with.” “So we really don’t have much equipment and we work with what can.” Gunny then said, “Ok, Sergeant Ponce you are not in trouble I like your honesty if I was a Sergeant I would have done the same.” He then gave me a card of a support unit that supports the whole base when it comes for equipment. I walked him to my Staff Sergeant and Captain’s office and he pretty much told them that I was not in trouble and to use the support unit to help us finish our mission and so we did. After telling this story she said, “No, that is not what the polygraph is reading.” I asked, “what question was the polygraph reading.” She answered, “Its reading that you killed somebody.” “It’s reading that you are a serial killer.”

At this point I was in shock and even more confuse. I told her that I was not a serial killer and that I had never killed anyone. I also asked why you are saying I’m a serial killer. She smiled and give a happy gesture and pointed at the polygraph system saying, “ I didn’t say it the polygraph,” said it. At this point I was asking myself what or who is conducting this interview? For forty minutes Mrs. Hudson kept on asking the same question who I killed. In that time frame I asked her, “ if your polygraph system is so accurate like you mention, why don’t you ask for the location, time, date, and how many. She said, “the polygraph cannot determine that but it saying you are a serial killer, come on tell me. When she said that, she a had huge smirk on her face I could not believe. I said, “ Well there was in incident in Kenya in 2006 when I was Marine, but we follow all proper rules of engagement and escalation force and there was no need for a shooting or having someone die for food. She said, “Nope” that is not it. I was getting frustrated at this point. I then told her “I don’t think your polygraph is that good, but I’m going to tell something, it might be reading it because this thought is buried in my head, but I don’t think your machine is that good. Here is my buried memory; I told her my father used to really beat the living crab out of my mother. He used to beat her really bad. I was four or five years one day my father beat the crab out of my mother and I got to witness it again. So after the beating he goes to sleep. I waited till he really fell asleep. I went to his closet and pulled out his gun. I do not recall if the gun was loaded or not. The thing only I remember was if I pull the trigger there will be a loud pop, just like in the movies. When I point the weapon at him, I did not know the results that will occur. So after 5 minutes I put the gun back where it belongs and left it as is. I told Mrs. Hudson, “If you called that incident a serial killer then do what you have to do and arrest me but I doubt it.” She said “that was very candid and wow.” She went to go check with her supervisor to ask if that was a serial crime or if that categorized me as a Serial Killer I assume. She came back and said, “that it was in self defense.” She then moved on to the next question which was if I have taken steroids or sold steroids? I said, “No.” Next question was if I was hiding any drugs? I said “No.” The last question was if was telling the truth and answered with a “Yes.” She stated, “that I stilled fail for not telling the truth.”

I’m very upset on how they treat veterans on polygraphs exam. First of all the polygraphs are not accurate and that is why they are not used any **COURT SYSTEM because they are not accurate.** There is no need for a job interview to last 10 hours. I have been in the military for ten years already. One I was Marine for 9 ½ and the other remaining in the Air Force. And then to make it worst I receive an email stating that I’m **Unfavorable** for the job. Why your email says I’m **Unfavorable**, if you guy invited me to take the test for Border Patrol when my former jobs relates to yours. At the age of 18 I was taught to patrol on foot and vehicle and make proper decision by the U.S Marines. I quickly send a reply to the email asking, “Why, I failed if I was completed honest?” The email monitor sends me a link to go to which has a phone number to call but no one ever responds or calls back after leaving a message. So I appeal my case and the response I get back is that I’m **Partial Denial.** I have served my country till this present day and I will also receive my Bachelors degree on 6-25-15. I’m requesting a wavier or to retake the polygraph. This program is unfair because the work ethics of the agents conduct on the polygraph is not proper **they are caught in lies themselves and they blame everything on the polygraph.** If the polygraph had a malfunction that lasted 2 hours why didn’t they just send me home or rescheduled me for another time. I hope you guys can fixed this issue because this also is a job interview not a court case , or a trail, or preliminary hearing. This actually feels like my country just slapped my face after the service and sacrifice I have gone through. There are many veterans and civilians that have a similar story with this polygraph system.

Very Respectfully

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